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IN THE

**Supreme Court of the United States**

OCTOBER TERM, 1977

**No. 77-227**

PHILIP MORRIS, INC.,

*Petitioner,*

v.

SECRETARY OF THE TREASURY OF THE  
COMMONWEALTH OF PUERTO RICO,

*Respondent.*

ON PETITION FOR WRIT OF CERTIORARI TO THE SUPREME COURT  
OF THE COMMONWEALTH OF PUERTO RICO

**PETITIONER'S REPLY BRIEF**

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**PETITIONER'S REPLY BRIEF**

Petitioner, Philip Morris Incorporated, replies to arguments raised for the first time in Respondent's Brief in Opposition as follows:

**Petitioner's Claim Was Timely Filed**

1. Respondent argues that Petitioner was late in giving notice of the theft. The courts below considered the case on the merits and granted Petitioner the relief requested except that the Supreme Court of Puerto Rico granted only partial relief. Petitioner had no duty to give notice to Respondent prior to filing its claim. Moreover, the applicable Statute of Limitations for filing claims for refund is four years after payment. 13 L.P.R.A. §261.

### **The Federal Questions Were Timely Raised**

2. Respondent argues that the Federal questions were not timely raised below. The Trial Court adequately considered the questions of the extraterritorial application of the tax and the prerequisite nexus between the merchandise subject to tax and the taxing power of the Commonwealth, as evidenced by its First Conclusion of Law. Pages A-12 and A-13 of the Appendix to Petition. No occasion for argument of the irrebuttable presumption and other due process issues existed prior to the decision of the Supreme Court of Puerto Rico, which decision for the first time overturned established local legal precedents on which the Petitioner had reasonably relied. *Great Northern Railway Co. v. Sunburst Oil & Refining Co.*, 287 U.S. 358 at 366 and 67 (1932); *Brinkerhoff-Faris Trust & Savings Company v. Hill*, 281 U.S. 673 at 677 and 78 (1929).

### **CONCLUSION**

For these reasons, and the reasons set forth in the Petition herein, the decision below should be reviewed and summarily reversed.

Respectfully submitted,

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